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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR  | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|-----------------------|---------------------|------------------|
| 09/964,766  | 09/28/2001  | Walter Joseph Carpini | 78945-13/jlo        | 2984             |
| 29382   | 7590        | 06/26/2006            | EXAMINER            |                  |
| TROPIC NETWORKS INC.<br>DR. VICTORIA DONNELLY<br>135 MICHAEL COWPLAND DRIVE<br>KANATA, ON K2M 2E9<br>CANADA |             |                       | HAN, CLEMENCE S     |                  |
|   |             |                       | ART UNIT            | PAPER NUMBER     |
|   |             |                       | 2616                |                  |

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/964,766

Applicant(s)

CARPINI ET AL.

Examiner

Clemence Han

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 75-80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 75-80 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 77 is objected to because of the following informalities: The “said” between “wherein” and “second” in the first line is missing. Appropriate correction is required.
2. Claim 77 is objected to because of the following informalities: There is a typographical error in line 2. “said fist communication path” should be changed to “said first communication path”. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 79 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 79 recites the limitation "the next segment" in line 3. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 75-80 are rejected under 35 U.S.C. 102(e) as being anticipated by Kodialam et al. (U.S. Pub 2002/0067693).

Regarding Claim 75, Kodialam et al. discloses a communication network including a first communication path having a plurality of switching routers 301, 302, 303, 304 and 312, and a second communication path 301 302, 303, 308, 304 and 312 having at least one communication path element 308 different from said first communication path, said first communication path divided into at least one section, each said section having a selected switching router 303, wherein said selected switching router of said section includes output means for outputting data with a label for routing data along one of said first and second communication paths (See paragraph [0010]. The Network Tunnel Path (NTP) disclosed incorporate MPLS restoration for LSP (label switched paths) for restoration mechanism), and routing means responsive to a fault in the transmission capability of said section of said first communication path for routing data along said second communication path [0027], [0028].

Regarding Claim 76, Kodialam et al. discloses said selected router 303 is positioned at a head end of said section.

Regarding Claim 77, Kodialam et al. discloses second communication path shares as few resources as possible with said first communication path (Fig. 1, Fig. 2 and Fig. 5. See paragraphs [0026, 0040]. At step 503, each usage cost is generated as

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the cost of using one or more given links disjoint from the active path link to backup the link in the active path. The usage costs are computed with multiple invocations of a shortest-path computation for each partial backup path including the link because the backup path for a link can terminate at any point (node) on the path from that link to the destination. Using one or more given links disjoint from the active path link to backup the link in the active path is associated with the second communication path selected to share the minimum number of communication links with first communication path. Fig. 1 and Fig. 2 show no links and nodes being shared between the path 101 and 102).

Regarding Claim 78, Kodialam et al. discloses a plurality of segments wherein at least some segments overlap (Figure 3).

Regarding Claim 79, Kodialam et al. discloses said selected switching router is configured to route said data on said second communication path back onto the next segment of said first communication path (Fig. 3, element 302 (source node), element 303 (intermediate node) and element 312 (destination node). See paragraphs (0009, 0010, 00281. The first communication path is via nodes 302 to 303, 303 to 304 and 304 to 312. A second communication path is via nodes 303 to 308 to 304. The Network Tunnel Path (NTP) disclosed incorporate MPLS restoration for LSP (label switched paths) for restoration mechanism associated with first label switched path originating at source node and secondary label switch path originating at intermediate

node. When link between 303 and 304 fails in the first communication path, the data from first communication path is routed via second communication path 303 to 308 to 304 and back to first communication path to 312 and this is associated with bypassing fault and re-joins first communication path, and conditioning intermediate node to direct data from first label switched path to second label switched path in response to a fault on first communication path between intermediate node and destination node).

Regarding Claim 80, Kodialam et al. discloses an indication of a failure downstream of said selected router is transmitted by a fast flooding LSA mechanism [0032], [0070].

### ***Response to Arguments***

8. Applicant's arguments with respect to claim 75-80 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply

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is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clemence Han whose telephone number is (571) 272-3158. The examiner can normally be reached on Monday-Thursday 7 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

C. 14

Clemence Han  
Examiner  
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SUPERVISORY PATENT EXAMINER  
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